

HOUSE BILL No. 1147

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-7; IC 3-10; IC 3-11-8; IC 3-11.7-2-1.

Synopsis: Election day voter registration. Permits a voter to register at the polls by completing a voter registration form, an affirmation that the person has not voted elsewhere in the election, and proof of residence. Specifies the documents acceptable as proof of residence, including a statement signed by another voter in the precinct that corroborates the residency of the person registering to vote. Requires that voter registration forms executed at the polls be processed in the same manner as other registrations.

Effective: July 1, 2005.

Day

January 6, 2005, read first time and referred to Committee on Elections and Apportionment.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1147

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-7-13-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The registration
3 period begins December 1 of each year (or the first Monday in
4 December if December 1 falls on a Saturday or Sunday).
5 (b) The registration period continues through the twenty-ninth day
6 before the date a primary election is scheduled under this title.
7 (c) The registration period resumes fourteen (14) days after primary
8 election day and continues through the twenty-ninth day before the date
9 a general or municipal election is scheduled under this article.
10 (d) This subsection applies in each precinct in which a special
11 election is to be conducted. The registration period ceases in that
12 precinct on the twenty-ninth day before a special election is conducted
13 and resumes fourteen (14) days after the special election occurs.
14 (e) **Notwithstanding subsections (b) through (d), a person may**
15 **register or transfer registration on the day of a primary, general,**
16 **municipal, school district, or special election as provided in**
17 **IC 3-7-49.**

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SECTION 2. IC 3-7-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. A person desiring to register or transfer a registration may do so:

(1) at the office of the circuit court clerk or board of registration through the close of business on the twenty-ninth day before the election is scheduled to occur; **or**

(2) on the day of a primary, general, municipal, school district, or special election as provided in IC 3-7-49 or IC 3-10-11.

SECTION 3. IC 3-7-36-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) This section applies only to a person described in subsection (b) who applies to register to vote:

(1) after the date described in IC 3-7-13-11; and

(2) before the date that the certified list of voters is prepared under IC 3-7-29-1.

(b) An absent uniformed services voter who is absent from Indiana during the registration period described in ~~IC 3-7-13-10~~ **IC 3-7-13-10(a) through IC 3-7-13-10(d)** and who otherwise would be entitled to register to vote under Indiana law may, upon returning to Indiana during the period described in subsection (a) following discharge from service or reassignment, register to vote by doing the following:

(1) Showing either of the following to the circuit court clerk or board of registration:

(A) A discharge from service, dated not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

(i) the voter;

(ii) the voter's spouse; or

(iii) the individual of whom the voter is a dependent.

(B) A copy of the government movement orders, with a reporting date not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

(i) the voter;

(ii) the voter's spouse; or

(iii) the individual of whom the voter is a dependent.

(2) Completing a registration affidavit.

(c) A voter who registers under this section may vote at the upcoming election as provided in this title.

SECTION 4. IC 3-7-36-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) This section

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1 applies to a person described in subsection (b) who applies to register
2 to vote during the period:

- 3 (1) beginning on the date that the certified list of voters is
4 prepared under IC 3-7-29-1; and
5 (2) ending at noon election day.

6 (b) An absent uniformed services voter who is absent from Indiana
7 during the registration period described in ~~IC 3-7-13-10~~
8 **IC 3-7-13-10(a) through IC 3-7-13-10(d)** and who otherwise would
9 be entitled to register to vote under Indiana law may, upon returning to
10 Indiana during the period described in subsection (a) following
11 discharge from service or reassignment, register to vote by doing the
12 following:

- 13 (1) Showing either of the following to the county voter
14 registration office:

15 (A) A discharge from service, dated not earlier than the
16 beginning of the registration period that ended on the date
17 described in IC 3-7-13-11, of:

- 18 (i) the voter;
19 (ii) the voter's spouse; or
20 (iii) the individual of whom the voter is a dependent.

21 (B) A copy of the government movement orders, with a
22 reporting date not earlier than the beginning of the registration
23 period that ended on the date described in IC 3-7-13-11, of:

- 24 (i) the voter;
25 (ii) the voter's spouse; or
26 (iii) the individual of whom the voter is a dependent.

- 27 (2) Completing a registration affidavit.

28 (c) **Except as provided in subsection (g)**, a voter who registers
29 under this section may vote at the upcoming election only by absentee
30 ballot at the office of the circuit court clerk at the time the voter
31 registers under this section or at any time after the voter registers under
32 this section and before noon on election day. A voter who wants to vote
33 under this subsection must do both of the following:

- 34 (1) Complete an application for an absentee ballot.
35 (2) Sign an affidavit that the voter has not voted at any other
36 precinct in the election.

37 The voter may vote at subsequent elections as otherwise provided in
38 this title.

39 (d) If the voter votes by absentee ballot under this section, the
40 circuit court clerk shall do the following:

- 41 (1) Certify in writing that the voter registered under this section.
42 (2) Attach the certification to the voter's absentee ballot envelope.

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(e) If the county has a board of registration, the board of registration shall promptly deliver the voter's registration affidavit to the circuit court clerk to permit the voter to vote under subsection (c).

(f) If the voter chooses not to vote under subsection (c), the county voter registration office shall register the voter on the first day of the next registration period.

(g) A person described in subsection (b) may register and vote on the day of a primary, general, municipal, school district, or special election as provided in IC 3-7-49.

SECTION 5. IC 3-7-48-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as otherwise provided by NVRA or in this chapter, a person whose name does not appear on the registration record may not vote, unless:

- (1) the circuit court clerk or board of registration provides a signed certificate of error in the office where the permanent registration record is kept showing that the voter is legally registered in the precinct where the voter resides; **or**
- (2) the voter has registered as provided in IC 3-7-49.**

(b) A person:

- (1) whose name does not appear on the registration record; **and**
 - (2) who does not register as provided in IC 3-7-49;**
- may cast a provisional ballot as provided in IC 3-11.7.

SECTION 6. IC 3-7-49 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 49. Election Day Registration

Sec. 1. (a) A person who is not registered to vote but is otherwise qualified to vote shall be allowed to vote at the polls in a primary, general, municipal, school district, or special election if the person registers at the polls under this chapter.

(b) In order to register to vote at a precinct under this chapter, the person:

- (1) must be a resident of the precinct;**
- (2) must be otherwise legally qualified to vote under IC 3-7-13-1;**
- (3) may not be registered to vote under IC 3-7-14 through IC 3-7-23;**
- (4) may not be qualified to vote under IC 3-7-39-7, IC 3-7-39-8, IC 3-7-48, IC 3-10-10, IC 3-10-11, or IC 3-10-12; and**
- (5) may not have already voted in the election.**

(c) Before allowing the person to vote, the poll clerk or other

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precinct election officer shall require the person to do the following:

(1) Complete a voter registration form prescribed by IC 3-7-18, along with the affirmation described in section 3 of this chapter, and sign the form in the presence of two (2) precinct election officers who must be from different political parties. If the county election board has not appointed precinct election officers from more than one (1) political party to the precinct election board, then the inspector for the precinct shall sign the form as the second precinct election officer.

(2) Provide acceptable proof of residence.

Sec. 2. (a) For purposes of this chapter, one (1) of the following forms of identification is acceptable as proof of residence:

(1) A current and valid photo identification.

(2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the person registering to vote.

(3) A statement signed by any other voter in the precinct that corroborates the information on the voter's registration form concerning the residency of the person registering to vote. The corroborator shall provide the identification listed in subdivision (1) or (2) as proof of the corroborator's residence and shall sign the statement in the presence of two (2) precinct election officers who must be from different political parties. If the county election board has not appointed precinct election officers from more than one (1) political party to the precinct election board, the inspector for the precinct shall sign the form as the second precinct election officer. The commission shall prescribe the form of the statement.

(b) If the person presents a document under subsection (a), the poll clerk shall add a notation to the poll list indicating the type of document presented by the person. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(c) If a person is unable to present the documentation required under subsection (a) to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(d) The precinct election board shall advise the voter that the voter may file a copy of the documentation with:

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1 (1) the county voter registration office; or
 2 (2) the precinct election board in the voter's precinct;
 3 to permit the provisional ballot to be counted under IC 3-11.7.

4 Sec. 3. The commission shall prescribe the affirmation required
 5 by section 1(c)(1) of this chapter. The affirmation must include a
 6 statement that the person has not already voted at the election for
 7 which the person is registering to vote.

8 Sec. 4. A person who registers to vote under this chapter:

9 (1) may not be challenged on the grounds that the person's
 10 registration does not appear in the precinct registration book
 11 or poll list; and

12 (2) is not required to obtain a certificate of error under
 13 IC 3-7-48 to vote.

14 Sec. 5. Before each primary, general, municipal, school district,
 15 or special election, the county election board shall provide each
 16 precinct election board with a sufficient number of registration
 17 forms, affirmations, and statements to meet the reasonable need
 18 for the forms under this chapter.

19 Sec. 6. The precinct election board shall attach the completed
 20 registration forms, affirmations, and statements to the poll list for
 21 processing by the county voter registration office under
 22 IC 3-10-1-31.1.

23 Sec. 7. (a) The precinct election board shall add the name and
 24 address of a person who registers to vote under this chapter to the
 25 poll list of the precinct.

26 (b) The county voter registration office shall add the name of a
 27 person who registers to vote under this chapter to the registration
 28 record of the county.

29 Sec. 8. The county voter registration office shall process under
 30 IC 3-7-33-5 the voter registration forms completed under section
 31 1 of this chapter.

32 Sec. 9. If a notice mailed under IC 3-7-33-5 to a person who
 33 registered under this chapter is returned as undeliverable, the
 34 county voter registration office shall initiate steps under
 35 IC 3-7-33-6 to remove the person from the registration rolls.

36 Sec. 10. A registration completed under this chapter for which
 37 the notice mailed under IC 3-7-33-5 is not returned is effective to
 38 the same extent as if the registration had been completed under
 39 IC 3-7-14 through IC 3-7-23.

40 SECTION 7. IC 3-10-1-31.1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31.1. (a) This section
 42 applies only to election materials for elections held after December 31,

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(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(c) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots and other material during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (d), after the recount or contest filing period, the election material (except for ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 42 U.S.C. 1974, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

- (1) IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(d) If a petition for a recount or contest is filed, the material for that election remains confidential until completion of the recount or contest.

(e) This subsection applies before January 1, 2006. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) a change of name made under IC 3-7-41;
- (4) adding the registration of a voter under IC 3-7-48-8; or
- (5) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

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(f) This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) a change of name made under IC 3-7-41; or
- (4) adding the registration of a voter under IC 3-7-48-8 **or IC 3-7-49;**

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(g) This subsection does not apply to ballots. Notwithstanding subsection (c), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the election material necessary to protect the secrecy of the voter's ballot.

(h) After the expiration of the period described in subsection (c) or (d), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 8. IC 3-10-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) If the special election occurs during the period when registration is open under IC 3-7-13, the registration period continues through the twenty-ninth day before the special election occurs and resumes on the date specified by IC 3-7-13-10(d), **except that a person may register or transfer registration on the day of a special election as provided in IC 3-7-49.**

(b) The election board conducting the special election shall provide poll lists for use at the precincts that include the names of voters in the precinct who:

- (1) have registered through the twenty-ninth day before the special election is to be conducted; or

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(2) are absent uniformed services voters or overseas voters registered under IC 3-7-36.

(c) This subsection applies when a special election is ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18. A candidate may not be placed on the special election ballot unless the candidate was on the ballot or was a declared write-in candidate for the office at the general election preceding the special election.

(d) The restrictions on the sale of alcoholic beverages set forth in IC 7.1-5-10-1 apply in each precinct in which the special election is conducted.

SECTION 9. IC 3-11-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) Only the following persons are permitted in the polls during an election:

- (1) Members of a precinct election board.
- (2) Poll clerks and assistant poll clerks.
- (3) Election sheriffs.
- (4) Deputy election commissioners.
- (5) Pollbook holders.
- (6) Watchers.
- (7) Voters for the purposes of:
 - (A) voting; or
 - (B) for voters registering to vote on election day under IC 3-7-49, filing a copy of the documentation required by IC 3-7-49-2(a) with the precinct election board in the voter's precinct, so that the individual's provisional ballot may be counted under IC 3-11.7.
- (8) Minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29.
- (9) An assistant to a precinct election officer appointed under IC 3-6-6-39.
- (10) An individual authorized to assist a voter in accordance with IC 3-11-9.
- (11) A member of a county election board, acting on behalf of the board.
- (12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).
- (13) Either of the following who have been issued credentials signed by the members of the county election board:
 - (A) The county chairman of a political party.
 - (B) The county vice chairman of a political party.

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(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 10. IC 3-11-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. Challengers appointed under IC 3-6-7 are entitled to stand at the sides of the chute next to the entrance to the polls, as provided in IC 3-6-7-2. No other person may remain within a distance equal to the length of the chute (as defined in IC 3-5-2-10) of the entrance to the polls except for the purpose of :

(1) offering to vote; or

(2) for voters registering to vote on election day under IC 3-7-49, filing a copy of the documentation required by IC 3-7-49-2(a) with the precinct election board in the voter's precinct, so that the individual's provisional ballot may be counted under IC 3-11.7.

SECTION 11. IC 3-11-8-25.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.1. (a) This section applies after December 31, 2005.

(b) After a voter has passed the challengers or has been sworn in, the voter shall be admitted to the polls. Upon entering the polls, the voter shall announce ~~the voter's name~~ to the poll clerks or assistant poll clerks **the voter's name and whether the voter wants to register to vote at the polls. If the voter wants to register and meets the conditions set forth in IC 3-7-49, the poll clerk or other precinct election officer shall register the voter in accordance with IC 3-7-49. If the voter is already registered,** a poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) Except as provided in subsection (f), the voter's current residence address.

(c) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) ask the voter to provide or update the voter's voter identification number;

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(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(d) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(e) If, in a precinct governed by subsection (c):

(1) the poll clerk does not execute a challenger's affidavit; or

(2) the voter executes a challenged voter's affidavit under section 22 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote.

(f) Each line on a poll list sheet provided to take a voter's current address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list.

SECTION 12. IC 3-11-8-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.5. **(a)** If an individual signs the individual's name and either:

(1) signs the individual's address; or

(2) after December 31, 2005, checks the "Address Unchanged" box;

on the poll list under section 25 of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may not be permitted to reenter the polls, ~~to cast a ballot at the election.~~ **except as provided by subsection (b).**

(b) An individual who:

(1) registers to vote on election day under IC 3-7-49; and

(2) casts a provisional ballot under IC 3-11.7, because the individual is unable to present the documentation required under IC 3-7-49-2(a);

is entitled to reenter the polls solely to file a copy of the documentation required by IC 3-7-49-2(a) with the precinct election board in the voter's precinct, so that the individual's provisional ballot may be counted under IC 3-11.7.

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SECTION 13. IC 3-11.7-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) As provided by 42 U.S.C. 15482, this section applies to the following individuals:

(1) An individual:

- (A) whose name does not appear on the registration list; and
- (B) who is not permitted to vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12.

(2) An individual described by IC 3-10-1-10.5, IC 3-11-8-23.5, or IC 3-11-8-27.5 who is challenged as not eligible to vote.

(3) An individual who seeks to vote in an election as a result of a court order (or any other order) extending the time established for closing the polls under IC 3-11-8-8.

(4) An individual who is registering to vote at the polls but has not presented identification required under IC 3-7-49-2.

(b) ~~This subsection applies after December 31, 2003.~~ As required by 42 U.S.C. 15483, a voter who has registered to vote but has not:

- (1) presented identification required under 42 U.S.C. 15483 to the poll clerk before voting in person under IC 3-11-8-25; ~~or~~
- (2) filed a copy of the identification required under 42 U.S.C. 15483 to the county voter registration office before the voter's absentee ballot is cast; **or**

(3) after July 1, 2005, presented identification required under IC 3-7-49-2 to the poll clerk before voting in person under IC 3-11-8-25.1;

is entitled to vote a provisional ballot under this article.

(c) A precinct election officer shall inform an individual described by subsection (a)(1) or (a)(2) that the individual may cast a provisional ballot if the individual:

- (1) is eligible to vote under IC 3-7-13-1;
- (2) submitted a voter registration application during the registration period described by IC 3-7-13-10 (or IC 3-7-36-11, if the voter registered under that section); and
- (3) executes an affidavit described in IC 3-10-1-9 or IC 3-11-8-23.

(d) A precinct election officer shall inform an individual described by subsection (a)(3) that the individual may cast a provisional ballot.

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